REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF CUSTOMS, BUREAU OF CUSTOMS,
Petitioner,

- versus -

SAMAHAN NG MGA KAPAMPANGAN SA SAN ILDEFONSO MULTIPURPOSE COOPERATIVE, SILI MULTIPURPOSE COOPERATIVE and GREEN VALLEY UNITED COOPERATIVE,
Respondents.

CTA EB NO. 2668
(CTA Case No. 9383)

Present:

DEL ROSARIO, *P.J.,*
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:

AUG 15 2024 4:20pm

x - x

RESOLUTION

FERRER-FLORES, J.:

Submitted before this Court for resolution is petitioner's **Motion for Reconsideration (Re: Decision dated 12 January 2024)** filed on February 13, 2024, with respondent's **Comment (Re: Motion for Reconsideration dated 13 February 2024)** filed on February 29, 2024 through registered mail and received by the Court on March 6, 2024.

On January 12, 2024, the Court promulgated a *Decision* denying the *Petition for Review*, the dispositive portion of which reads as follows:

> **WHEREFORE**, premises considered, the instant Petition for Review is **DENIED** for lack of merit.
>
> Accordingly, the assailed Decision and Resolution promulgated on December 7, 2021 and June 30,2022, respectively, by the CTA Third Division and CTA Special Third Division in CTA Case No. 9383, are **AFFIRMED**.

> Petitioner is **ORDERED** to release to respondents the amount held in escrow in the total amount of One Hundred Fifty-Four Million Five Hundred Sixty-Six Thousand and Eight Hundred Pesos (P154,566,800.00) representing the value of the 94,000 bags of seized and auctioned Vietnam rice.
>
> **SO ORDERED.**

In his *Motion*, petitioner prays that the said *Decision* be reconsidered and a new one be rendered granting the petition based on the following grounds, *viz*:

> 1. The supposed Notices to Proceed (NTP) relied upon by the respondents are not equivalent to Import Authority as required under Item 3.1 of Customs Memorandum Order (CMO) No. 20-2001;
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> 2. The importation of the rice shipment subject of this case is not sanctioned by law;
>
> 3. The present *Decision* dated January 12, 2024 amounts to alteration of the Decisions of the Court's Third Division in CTA Crim. Case Nos. O-379 and O-380, which cannot be done under the principle of immutability of judgments; and,
>
> 4. Respondents were not able to conclusively establish "honest mistake" on the part of the shipping agent in the importation of the subject rice shipment.

On the other hand, respondents maintain that there is no compelling reason to modify, much more, deviate from the said *Decision*.

We deny the petitioner's *Motion for Reconsideration.*

This Court had already extensively discussed all of the above arguments in the challenged *Decision* and we found them without merit. Nevertheless, we elaborate some points.

Notice to Proceed is akin to Import Authority.

It is true that an Import Authority is required for all shipments of rice imported into the country. This is explicitly provided in Item 3.1 of CMO No. 20-2001. However, what is peculiar in this case is that the subject shipment of rice was conducted through the public bidding process under the so-called the *"National Food Authority (NFA) regarding Private Sector-Financed Importation through Tax Expenditure Subsidy"* (NFA PSF TES) Program. Respondents participated in the public bidding and, as a result thereof, they were among the farmers' cooperatives that were awarded contracts and eventually the NTP.

We held in the challenged *Decision* that the NTP is equivalent to Import Authority. However, petitioner argues that the NTP cannot be considered as Import Authority but one of the several documents that will lead to issuance thereof.

The petitioner's argument has no basis.

We note that the subject importation of rice was coursed through the public bidding process. Part of the bidding process the Bidding Documents which includes the Instructions to Bidders (ITB).[1] Nowhere in the ITB does it instruct respondents to consider the NTP as part of the several documents that will lead to the issuance of Import Authority. On the contrary, the ITB does not even provide for an instruction to the winning bidder to secure an Import Authority before the rice shipment can be released.

This is clear in the testimony of Nestor U. Puangco, Division Chief of the Foreign Operations Division of the Grains Marketing and Operations Department of the NFA, wherein Associate Justice Ma. Belen M. Ringpis-Liban propounded some clarificatory questions,[2] as follows:

> ASSOC. SOL. CEBRIAN
> Q: I was asking the good witness to point where in this document that you identified, the Instruction to Bidders, where was it stated that no import permit is required to release the rice shipment?
>
> JUSTICE LIBAN
> In the other way around, is there anything in that guidelines which says that the import permit is required to file an import entry, it can be either way, would you agree?
>
> ASSOC. SOL. CEBRIAN
> Yes, Your Honors.
>
> JUSTICE LIBAN
> **So take a look at the guidelines and tell us if there is anything in that guideline which states that the import permit is required to file an import entry to release the rice shipment from the Bureau of Customs? So, is there anything that says import permit is required?**

[1] Exhibit "P-1 ", Docket - Vol. 2, pp. 710-744.
[2] *Transcript of Stenographic Notes* on the hearing held on August 8, 2019, pp. 22-23.

MR. PUANGCO
A: Your Honor, as far as I can recall here ...

JUSTICE LIBAN
If there is none, then just tell us if there is nothing in the guidelines states that the import permit is required.

MR. PUANGCO
A: **I cannot see a sentence or something like that in the instruction to bidders that says that import permit is needed for the importation of this.** (Boldfacing supplied)

Nevertheless, inasmuch as the petitioner seeks for the Import Authority to serve as basis for the release of the rice shipment to respondents, we hold that the NTPs issued by then NFA Administrator Angelito T. Benayo to herein respondents, Samahan ng mga Kapampangan sa San Ildefonso Multipurpose Cooperative (SKSIMC), Sili Multipurpose Cooperative (SMC) and Green Valley Unified Cooperative (GVUC) with the following tenor:

> ...**you may now proceed to import** under the Private Sector-Financed (PSF) Importation Program through the National Food Authority Tax Expenditure Subsidy (TES)...**rice.**

are equivalent to Import Authorities in view of the procurement process.

It is not amiss to point out that the ultimate owner/consignee of the subject imported rice is the NFA (being the procuring entity). In fact, it was the NFA that shouldered the required customs duties of the said importation funded from its Tax Expenditure Subsidy appropriation in the General Appropriations Act. Thus, the NFA is the ultimate importer of rice on record for the account of the respondents. As NFA is authorized to import rice under Section 7(c) of Presidential Decree No. 1770,[3] there is no need to secure Import Authority.

For this Court, it is inequitable for the petitioner to forfeit the subject rice importation on the mere absence of an Import Authority which, under the bidding process, was not even required and was alternatively proven by an equivalent evidence.

We hold that the NTPs issued to the respondents can serve as authorities to import rice under the bidding process of the 2012 NFA PSF TES Program.

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[3] *National Food Authority Act.*

The importation is sanctioned by law.

Having said that the subject importation of rice had been procured through the NFA PSF TES Program and that the respondents' NTPs together with the shipping documents[4] substantially complied with the requirements under Item 4.1 of CMO No. 20-2001 as discussed herein and in the challenged *Decision*, the importation is indeed sanctioned by law.

The present Decision dated January 12, 2024 did not alter the Decisions in CTA Criminal Case Nos. O-379 and O-380.

Contrary to petitioner's belief, that the present *Decision* alters the Decision of the Third Division in CTA Crim. Case Nos. O-379 and O-380, the instant pronouncement even bolstered the judgments therein.

In those two (2) cited criminal cases with Entries of Judgment, the prosecution's cause of action was the illegal rice importation of the accused Samahang Magsasakang Kapampangan at Katagalugan Multi-Purpose Cooperative (SMKKMC)[5] and Ugnayang Magbubukid ng San Isidro Inc. (UMSII)[6] constituting the crime of smuggling and unlawful importation of the 94,000 bags of rice on board the MV Minh Tuan 68.

In CTA Crim. Case No. O-379, entitled *People of the Philippines vs. Maximo Hernandez, et al.*, SMKKMC was declared to have failed to secure from the NFA the import permit for its rice shipments and did not possess the legal authority to import rice consigned to it. On the other hand, in CTA Crim. Case No. O-380, entitled *People of the Philippines vs. Ugnayan Magbubukid ng San Isidro, Inc.*, UMSII was declared not authorized to make the rice importation and was not issued the requisite Memorandum of Undertaking and Certification of Official Importation making the shipment contrary to law.

To the Court's mind, the SMKKMC and UMSII will definitely not be able to present those lacking documents in those cases precisely because those documents were issued to herein respondents.

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[4] Exhibits "P-15", "P-16", "P-17", "P-20", "P-19", "P-18", "P-21", "P-31", "P-32", "P-33", "P-34", "P-35", "P-36", "P-37","P-46", "P-47", "P-48", "P-49", "P-50", "P-51", and "P-52", BOC Records, pp. 22-29, 13-20, and 31-39.

[5] CTA Crim. No. 379, Entry of Judgment dated August 17, 2018.

[6] CTA Crim. No. 380, Entry of Judgment dated February 22, 2018.

Therefore, the pronouncement of this Court in the instant case, finding that the respondents were the consignees of the 94,000 bags of Vietnamese rice on board the MV Minh Tuan 68 possessing the complete documents for the subject importation, will not affect or alter the judgment in CTA Crim. Case Nos. O-379 and O-380 which had declared failure on the part of SMKKMC and UMSII to present the requisite importation documents. More so, as correctly pointed out by petitioner, the cited judgments had attained finality; hence, can never be altered, amended, or modified, even if the alteration, amendment, or modification is to correct an erroneous judgment.[7]

The "honest mistake" on the part of the shipping agent was properly established.

This issue has been exhaustively addressed by this Court in pages 21 to 26 of the challenged *Decision*[8] and we see no plausible ground to alter the same. We also find it unnecessary to re-discuss our ruling thereon as in the case of *Social Justice Society (SJS) Officers, et al. vs. Alfredo S. Lim, in his capacity as Mayor of the City of Manila*,[9] wherein the Supreme Court ruled:

> The grounds relied on being mere reiterations of the issues already passed upon by the Court, there is no need to "cut and paste" pertinent portions of the Decision or re-write the *ponencia* in accordance with the outline of the instant motion.
>
> As succinctly put by then Chief Justice Andres R. Narvasa in *Ortigas and Co. Ltd. Partnership v. Judge Velasco* on the effect and disposition of a motion for reconsideration:
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> > The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; and it would be a needless act, too, with respect to issues raised for the first time, these being, as above stated, deemed waived because not asserted at the first opportunity. It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, Art. VIII, Constitution); *i.e.*, the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues

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7 *Republic vs. Heirs of Gotengco*, G.R. No. 226355, January 24, 2018.
8 *Rollo, pp.* 286-291.
9 G.R. Nos. 187836 and 187916, March 10, 2015.

> have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc.

In sum, there being no new issues or arguments raised in the instant motion, this Court finds no compelling reason to disturb or overturn the challenged *Decision*.

WHEREFORE, premises considered, petitioner's **Motion for Reconsideration** is hereby **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

We concur:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

(On Official Business)
MARIAN IVY F. REYES-FAJARDO
Associate Justice

(On Official Business)
LANEE S. CUI-DAVID
Associate Justice

HENRY S. ANGELES
Associate Justice